

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

MICHAEL BUSH; LINDA TAYLOR;	)	
LISA TIERNAN; KATE HENDERSON;	)	
ROBERT EGRI; KATALIN EGRI;	)	
ANITA LOPEZ; MONICA GRANFIELD;	)	
ANN LINSEY HURLEY; IAN SAMPSON;	)	
SUSAN PROVENZANO; and JOSEPH PROVENZANO,	)	
<i>pro se</i> Plaintiffs,	)	
	)	
VS.	)	C.A. NO. 1:21-cv-11794-ADB
	)	
LINDA FANTASIA; MARTHA FEENEY-PATTEN;	)	
ANTHONY MARIANO; CATHERINE GALLIGAN;	)	
JEAN JASAITIS BARRY; PATRICK COLLINS;	)	
DAVID ERICKSON; TIMOTHY GODDARD; and	)	
TOWN OF CARLISLE,	)	
Defendants.	)	

**MOTION OF DEFENDANTS TO DISMISS  
PLAINTIFFS' COMPLAINT UNDER RULE 12(b)(6)**

The defendants, Linda Fantasia, Martha Feeney-Patten, Anthony Mariano, Catherine Galligan, Jean Jasaitis Barry, Patrick Collins, David Erickson, Timothy Goddard and Town of Carlisle, hereby move to dismiss plaintiffs' Complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state claims upon which relief can be granted. As grounds therefor, the defendants state:

1. The Carlisle Board of Health ("BOH") had the authority under Massachusetts law to issue the mask mandate on August 26, 2021.
2. The plaintiffs fail to state a claim for relief under Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131, *et seq.* (Count I).
3. The plaintiffs fail to state a claim for relief under the Equal Protection Clause of the Fourteenth Amendment, 42 U.S.C. § 1983 (Count II).

4. The individual defendants are entitled to qualified immunity under 42 U.S.C. § 1983 (Count II).
5. The plaintiffs fail to state a claim for relief under the Civil Rights Act of 1964, 42 U.S.C. § 2000a (Count IV).
6. Counts III & V-X of plaintiffs' Complaint contain no private rights of action under which plaintiffs can recover.
7. Plaintiffs' Complaint contains insufficient allegations of wrongdoing against the individual defendants, Linda Fantasia and Timothy Goddard.

Defendants hereby submit the enclosed Memorandum of Law in support of their Motion to Dismiss. For the convenience of the Court, a copy of Family Freedom Endeavor, Inc. v. Riley, Hampden Super. Ct., C.A. No. 2179CV00494, at 2-3 (Nov. 16, 2021), cited in defendants' Memorandum of Law, is attached hereto as Exhibit "A."

WHEREFORE, the defendants, Linda Fantasia, Martha Feeney-Patten, Anthony Mariano, Catherine Galligan, Jean Jasaitis Barry, Patrick Collins, David Erickson, Timothy Goddard and Town of Carlisle, respectfully request that this Honorable Court dismiss plaintiffs' Complaint for failure to state claims upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

#### **REQUEST FOR ORAL ARGUMENT**

The defendants respectfully request the Court to schedule oral argument on their Motion to Dismiss Plaintiffs' Complaint Under Rule 12(b)(6).

Respectfully submitted,

The Defendants,

LINDA FANTASIA, MARTHA FEENEY-PATTEN,  
ANTHONY MARIANO, CATHERINE GALLIGAN,  
JEAN JASAITIS BARRY, PATRICK COLLINS,  
DAVID ERICKSON, TIMOTHY GODDARD and  
TOWN OF CARLISLE,

By their Attorneys,

**PIERCE DAVIS & PERRITANO LLP**

*/s/ John J. Davis*

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Dated: January 5, 2022

**LOCAL RULE 7.1 CERTIFICATE**

I hereby certify that, on January 5, 2022, I attempted to confer in good faith with *pro se* plaintiff, Michael Bush, by telephone, in an effort to resolve or narrow the issues regarding this Motion. Mr. Bush is the only plaintiff whose telephone number and email address is listed on the Court docket.

*/s/ John J. Davis*

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John J. Davis, Esq.

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing, filed through the Electronic Case Filing System, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and that a paper copy shall be served upon those indicated as non-registered participants on December 2, 2021 as follows:

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*/s/ John J. Davis*

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